

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JACOB SCHWARTZ,

**COMPLAINT**

Plaintiff,

v.

Case No. 19-cv-5204

CITY OF NEW YORK,

Defendant.

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Plaintiff, by his undersigned attorneys, alleges as follows:

**INTRODUCTION**

1. This is a Fair Labor Standards Act and wage theft case filed by a former employee of the State of New York. Plaintiff worked overtime without time and a half compensation, and when he was terminated, despite requests, was not paid for the time at all.

**JURISDICTION**

2. The Court's jurisdiction is invoked pursuant to 29 U.S.C. 216 *et seq.* Pendant jurisdiction is also invoked.

**PARTIES**

3. Plaintiff Jacob Schwartz is a citizen of the United States. He resides in New York County. At all times he was an employee of the City of New York.

4. Defendant City of New York is a municipal government. It is an employer as that term is defined by the Fair Labor Standards Act.

## **FACTS**

5. From May 1, 2015 until May 20, 2017, Plaintiff was employed by the City of New York at its Department of Design and Construction in various titles as a Provisional Employee.

6. During that period, Plaintiff worked, during many weeks, in excess of 40 hours, but was not paid overtime pay. Instead, he was credited with “Comp Time” at a straight time pay rate.

7. On May 20, 2017 Plaintiff was terminated. Since he was a Provisional, he had no recourse.

8. Plaintiff received his last paycheck on June 2, 2017. Although he was paid his last week of pay, the check showed 457:10 of Comp Time, 26:38 of Holiday Comp (work done on holidays), and 21:16 hours of earned annual leave which had not been used.

9. Despite numerous requests, Plaintiff has not been paid either straight time or overtime pay for the hours in question, to his injury in a sum of approximately \$27,972.

### **AS AND FOR A FIRST CAUSE OF ACTION**

10. By failing to pay Plaintiff overtime, Defendant violated 29 U.S.C. § 207(a)(1).

### **AS AND FOR A SECOND CAUSE OF ACTION**

11. By failing to pay Plaintiff for time worked, Defendant engaged in wage theft, in violation of the New York Labor Law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court enter judgment for Plaintiff in the sum of \$27,972, plus liquidated damages, costs, and attorneys' fees.

Dated: New York, New York  
June 3, 2019

ADVOCATES FOR JUSTICE,  
CHARTERED ATTORNEYS

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